

**The Internal Revenue Service Needs to  
Enhance Guidance on and Monitoring of  
Compliance with Procedures for Directly  
Contacting Taxpayers and Their  
Representatives**

**September 1999**

**Reference Number: 199910076**



DEPARTMENT OF THE TREASURY  
WASHINGTON, D.C. 20220

INSPECTOR GENERAL  
for TAX  
ADMINISTRATION

September 30, 1999

MEMORANDUM FOR COMMISSIONER ROSSOTTI

FROM: Pamela J. Gardiner  
Deputy Inspector General for Audit

SUBJECT: Final Audit Report - The Internal Revenue Service Needs to Enhance Guidance on and Monitoring of Compliance with Procedures for Directly Contacting Taxpayers and Their Representatives

This report presents the results of our review to determine whether Internal Revenue Service (IRS) employees followed proper procedures to stop an interview if the taxpayer requested to consult with his/her representative. We also determined if employees followed proper procedures when bypassing the representative and contacting the taxpayer directly.

In summary, we found that, while the IRS has procedures that should enable it to protect taxpayers' rights during an interview with the taxpayer or when IRS employees appropriately bypass a representative and contact a taxpayer directly, we could not determine whether IRS employees complied with the procedures or protected taxpayers' rights. Current IRS management information systems do not separately record or monitor cases where taxpayers requested representation during an interview so we could not identify or review cases. There is no requirement for the IRS to maintain separate records for these situations.

We recommended that the IRS complete its efforts to develop national guidance for employees and develop a process to determine whether employees are complying with the law when a taxpayer requests to consult with a representative or the employee bypasses a representative.

IRS Collection and Examination management agreed with the issues addressed in this report and are planning corrective actions. Management's comments have been incorporated into the report where appropriate, and the full text of their comments is included as an appendix.

Copies of this report are also being sent to the IRS managers who are affected by the report recommendations. Please contact me at (202) 622-6510 if you have questions, or your staff may call Maurice S. Moody, Associate Inspector General for Audit (Headquarters Operations and Exempt Organizations Programs), at (202) 622-8500.

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## **Executive Summary**

The Taxpayer Bill of Rights, as part of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. No. 100-647, 102 Stat. 3731 (1988) renumbered Pub. L. No. 101-239, 103 Stat. 2423 (1989), created a number of safeguards to protect the rights of taxpayers when they are being interviewed by an Internal Revenue Service (IRS) employee as part of a tax audit or collection action. Specifically, IRS employees are required by 26 U.S.C. § 7521(b)(2) and (c) (1986) to:

- Stop the interview (unless required by court order) whenever a taxpayer requests to consult with a representative (any person, such as an accountant or attorney, who is permitted to represent taxpayers before the IRS).
- Obtain their immediate supervisor's approval to contact the taxpayer instead of the representative, if the representative is responsible for unreasonably delaying the completion of a tax audit or collection action.

A taxpayer can file a civil suit against the IRS under 26 U.S.C. § 7433 (1986) if an IRS employee intentionally or recklessly disregards this provision of the tax code by denying the taxpayer the right to consult with a representative or bypassing the representative without proper approval.

The Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 685 (1998) added 26 U.S.C. § 7803(d) (1986), which requires the Treasury Inspector General for Tax Administration to evaluate the IRS' compliance with the requirements in 26 U.S.C. § 7521(b)(2) and (c) (1986) described above. Our objective was to determine if the IRS was in compliance with these requirements.

## **Results**

The IRS has written procedures for employees to follow when taxpayers request to consult with a representative during an IRS interview or when representatives are unreasonably delaying an IRS tax audit or collection action. These procedures should enable IRS employees to protect taxpayers' rights and comply with the law.

However, we could not determine whether employees are protecting taxpayers' rights because neither we nor the IRS can readily identify cases for review. Current IRS management information systems do not separately record or monitor cases where taxpayers have requested to consult with a representative or where employees appropriately bypass taxpayer representatives and contact taxpayers directly. There is no

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requirement for the IRS to maintain separate records for these situations. The IRS also does not track taxpayer complaints related specifically to either of these issues.

### **The Internal Revenue Service Has Procedures for Directly Contacting Taxpayers and Their Representatives and Plans to Further Enhance Those Procedures**

The IRS' written procedures require employees to stop the interview and make a notation in the case file whenever a taxpayer requests to consult with a representative during an interview. These written procedures also instruct IRS employees to obtain their immediate supervisor's approval to directly contact a taxpayer if the representative is unreasonably delaying the completion of a tax audit or collection action. Thirty-six Collection and Examination Division employees in six IRS field offices revealed that they are aware of these procedures, would follow them, and would note in their case files the taxpayer's request for consultation and their action to stop the interview. They would also document bypassing a representative (when applicable) in the case file.

However, none of the employees interviewed recalled having either situation occur on their cases. Collection and Examination Division managers indicated that these situations rarely occur and that representation issues are usually resolved before the interview takes place.

Although employees were aware of the procedures, there were inconsistencies in the way they would apply the procedures if the situation occurred during an interview. For example, when defining reasonable time allowed to consult with a representative, some employees considered two weeks reasonable while others considered three weeks reasonable.

Collection and Examination Division management indicated that they recognized the need to define "reasonable time," as well as to clarify procedures for the following circumstances, to ensure the consistent treatment of taxpayers:

- Determine who should be contacted if the representative is authorized to represent the taxpayer on only one tax year, but the interview covers more than one year.
- Determine whether enforcement actions (such as seizure of property) should also be considered an "interview" with a taxpayer for the purpose of 26 U.S.C. § 7521(b)(2) and (c) (1986).

Examination Division management has drafted new procedures to include instructions for these circumstances and Collection Division management is planning to clarify their procedures.

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**The Internal Revenue Service Does Not Have a Process to Ensure Its  
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The IRS cannot easily determine how many taxpayers request to consult with a representative during an IRS interview or when employees bypass representatives and contact taxpayers directly. To identify these taxpayers' requests and bypass situations, the IRS would have to conduct a labor-intensive, manual review of every taxpayer case under audit or involved in the collection process, looking for a notation in the case file. There is no requirement for the IRS to maintain separate records of these situations. Without a process that identifies and tracks these requests and bypass instances separately, IRS management cannot determine the number of taxpayers' requests received or identify cases to review to ensure employees correctly stopped the interview, followed proper procedures for bypassing representatives, when warranted, and protected taxpayers' rights.

One way to identify possible violations of these taxpayers' rights is to determine if taxpayers have complained. IRS management in eight field offices and representatives of several practitioner organizations indicated that there were no taxpayer complaints received regarding taxpayer consultation rights during interviews. Only one field office informed us that it had received a complaint alleging that a representative was bypassed. While the lack of complaints alone does not ensure that the IRS is properly stopping the interview to give the taxpayer the opportunity to consult with a representative or is following the procedures for bypassing representatives, it could indicate that this is not a significant concern of taxpayers. It may also indicate that taxpayers are not clearly aware of their rights and simply do not complain if the IRS employee does not stop the interview or bypasses their representative.

To determine how the IRS notifies taxpayers of their rights in dealing with the IRS, we reviewed documents available to taxpayers, which describe their rights and obtained information from some of the IRS managers and employees we interviewed about their procedures for informing taxpayers of their rights. The IRS managers and employees informed us that taxpayers are provided a copy of Your Rights as a Taxpayer (Publication 1), prior to the scheduled interview. This publication explains taxpayers' rights and includes an explanation of the examination, collection, appeal, and refund processes. IRS employees answer any taxpayer questions regarding the rights included in Publication 1 during the interview. However, prior to December 1998, the right to stop the interview was not specifically mentioned in Publication 1. The IRS revised Publication 1 in December 1998 to address this right.

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## **Summary of Recommendations**

We recommend the IRS complete efforts to clarify existing procedures to ensure taxpayers and representatives are treated consistently and develop a process to determine whether employees are complying with the law when a taxpayer requests to consult with a representative or the employee bypasses a representative.

Management's Response: IRS management agreed to the issues addressed in this report and stated that they will clarify national guidance in the Internal Revenue Manual (IRM). The IRS does not foresee developing a new system that will allow for the identification of cases where taxpayers requested to consult with a representative or the employee bypassed a representative. IRS management is planning to revise the Examination and Collection Customer Satisfaction Surveys and will provide instructions to field managers and Quality Review staffs to specifically consider this issue. Management's complete response to the draft report is included as Appendix IV.



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## **Objective and Scope**

*Our objective was to determine if IRS employees followed proper procedures to stop an interview if the taxpayer requested to consult with his/her representative. We also determined if employees followed proper procedures when bypassing the representative and contacting the taxpayer directly.*

The overall objective of this audit was to evaluate the Internal Revenue Service's (IRS) compliance with the 26 U.S.C. § 7521(b)(2) (1986) requirement to stop an interview with a taxpayer, if that taxpayer requests to consult with a representative. We also determined if IRS employees were in compliance with the 26 U.S.C. § 7521(c) (1986) requirement to obtain their supervisor's approval to contact a taxpayer directly if the taxpayer's representative is unreasonably delaying a tax audit or collection action. The Treasury Inspector General for Tax Administration (TIGTA), Office of Audit, is required to report annually on the IRS' compliance with these provisions.

To accomplish these objectives, we:

- Identified the IRS' procedures to comply with the requirements of 26 U.S.C. § 7521(b)(2) and (c) (1986).
- Conducted a limited number of interviews with IRS employees to determine if they followed established procedures for observing taxpayers' rights to representation during the interview process.
- Determined if the IRS received complaints regarding violations of taxpayers' rights to representation during the interview process.

We conducted our audit in the North Florida, Kentucky-Tennessee, Ohio, Upstate New York, Houston, Midwest, Los Angeles, and Pacific Northwest District Offices and the National Office between January 1999 and April 1999. This audit was performed in accordance with *Government Auditing Standards*.

Details of our audit objective, scope, and methodology are presented in Appendix I. Major contributors to this report are listed in Appendix II.

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## **Background**

On July 22, 1998, the President signed into law the Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 685 (1998) (referred to as RRA 98). A provision in the RRA 98 added 26 U.S.C. § 7803(d) (1986), which requires TIGTA to evaluate the IRS' compliance with two provisions under the Taxpayer Bill of Rights (TBOR), as part of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. No. 100-647, 102 Stat. 3731 (1988) renumbered Pub. L. No. 101-239, 103 Stat. 2423 (1989), regarding taxpayer interviews. Specifically, IRS employees are required to:

- Stop an interview with a taxpayer (unless required by court order) whenever a taxpayer requests during the interview to consult with a representative (any person, such as an accountant or attorney, who is permitted to represent taxpayers before the IRS).
- Obtain their immediate supervisor's approval to contact the taxpayer directly instead of the representative whenever the representative is responsible for unreasonably delaying the completion of a tax audit or collection action.

A taxpayer may be interviewed by the IRS to evaluate the accuracy of the taxpayer's records, determine the depth and scope of an examination of a tax return, and determine the most effective means for collecting overdue taxes. The two TBOR provisions were created to protect the rights of taxpayers whenever they are interviewed by IRS employees as part of a tax audit or collection action. A taxpayer can file a civil suit against the IRS if an IRS employee intentionally or recklessly disregards these provisions by denying a taxpayer the right to consult with a representative or bypassing a representative.

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## **Results**

*While the IRS has written procedures for employees to follow, we could not determine if the IRS is complying with procedures and protecting taxpayers' rights because cases could not be identified for review.*

The IRS has written procedures for employees to follow when taxpayers request to consult with representatives during an IRS interview and when representatives are unreasonably delaying an IRS tax audit or collection action. These procedures should enable IRS employees to protect taxpayers' rights and comply with the law.

However, we could not determine whether employees are protecting taxpayers' rights because neither we nor the IRS can readily identify cases for review. Current IRS management information systems do not separately record or monitor cases where taxpayers have requested to consult with a representative or where employees appropriately bypass taxpayer representatives and contact taxpayers directly. There is no requirement for the IRS to maintain separate records of these situations. The IRS also does not track taxpayer complaints related specifically to either of these issues.

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### **The Internal Revenue Service Has Procedures for Directly Contacting Taxpayers and Their Representatives and Plans to Further Enhance Those Procedures**

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The IRS' written procedures require IRS employees to stop and reschedule an interview with a taxpayer who requests to consult with a representative during an interview. Even if the taxpayer has already answered one or more questions during the interview, employees must stop the interview and allow the taxpayer the opportunity to consult a representative.

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*The IRS' procedures include requiring IRS employees to:*

- Stop an interview if the taxpayer asks to consult with a representative.*
- Obtain proper approval when contacting taxpayers directly instead of the representative.*
- Document actions in the taxpayer's case file.*

IRS employees are required to document in the case file all actions taken on a case, including all taxpayer contacts, taxpayer actions expected and taken, target dates established, cancellations and rescheduling of appointments, etc. Therefore, all interviews that have been stopped and rescheduled because a taxpayer requested to consult a representative should be noted in the case file.

In addition, once a taxpayer appoints a representative to act on his/her behalf, IRS employees must deal directly with the representative instead of the taxpayer to complete the tax audit or collection process. However, if the representative delays or refuses to provide information to the IRS employee after repeated requests for the information, the employee may obtain his/her immediate supervisor's approval to bypass the representative and request the information directly from the taxpayer.

IRS employees are required to document in the taxpayer's case file their efforts to obtain taxpayer information and the representative's actions to delay the completion of the tax audit or collection process. In addition, before contact is made with the taxpayer, the supervisor must send a written notice to both the representative and taxpayer explaining the intentions and reasons for the bypass. A copy of the written notice is also included in the taxpayer's case file.

These procedures were established as a result of TBOR and have been in effect since 1988. Employees attended a training program when the procedures were first implemented and have received periodic refresher training over the years during group meeting discussions and continuing professional education training. Most recently, employees also attended training on the various provisions of the RRA 98.

Thirty-six Collection and Examination Division employees (revenue agents, tax auditors and revenue officers) in six IRS field offices revealed that they are aware of the above procedures, would follow them, and

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would note in their case files the taxpayer's request for consultation and their action to stop the interview. They would also document bypassing a representative (when applicable) in the case file. However, none of the employees interviewed could recall having either situation occur on their cases. Collection and Examination Division managers indicated that these situations rarely occur and representation issues are usually resolved before an interview.

Although the IRS has procedures to follow if a taxpayer asks to consult with a representative or employees bypass a representative, the procedures for allowing the taxpayer to consult with a representative need to be improved to ensure taxpayers are treated consistently. For example, the procedures do not define the amount of time employees should allow taxpayers to consult with their representative prior to rescheduling the interview. When we asked employees to define what they considered as reasonable time, their responses varied among the functions and districts. Some employees considered two weeks to be reasonable, while others considered three weeks to be reasonable. Other employees evaluated the time on a case-by-case basis.

Collection and Examination Division management indicated that they recognized the need to define "reasonable time," as well as to clarify procedures for the following two circumstances to ensure the consistent treatment of taxpayers:

- Determine who should be contacted if the representative is authorized to represent the taxpayer on only one tax year, but the interview covers more than one year.
- Determine whether enforcement actions (such as seizure of property) should be considered an interview with a taxpayer for the purpose of 26 U.S.C. § 7521(b)(2) and (c) (1986).

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*Examination and Collection Division management are taking or planning actions to improve procedures to help ensure consistent treatment of taxpayers.*

Examination Division management has drafted new procedures to include instructions for the above circumstances and Collection Division management is planning to clarify their procedures.

### **Recommendation**

We recommend that Examination and Collection Division management:

1. Complete efforts to clarify national guidance for IRS employees to ensure that taxpayers' requests to consult with their representatives are treated consistently.

Management's Response: IRS management agreed to provide additional national guidance for IRS employees. The Internal Revenue Manual (IRM) will be revised to reflect:

- Procedures for handling situations when a representative is authorized to represent the taxpayer on only one tax year, but the examination or collection interview covers more than one year.
- Whether enforcement actions (such as seizure of property) should be considered an interview with the taxpayer.

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## **The Internal Revenue Service Does Not Have a Process to Ensure Its Employees Are Complying with Procedures**

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*The IRS is not required to separately record or track these instances. As a result, we could not identify or review cases to determine whether IRS employees complied with procedures and protected taxpayers' rights in these interview and bypass situations.*

The IRS cannot easily determine how many taxpayers request to consult with their representatives during IRS interviews or when employees bypass the representatives and contact the taxpayers directly. To identify both situations, the IRS would have to identify the individual taxpayer cases containing a notation of the request or bypass in the case file. This would involve a labor-intensive, manual review of every taxpayer case under audit or involved in the collection

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process. There is no requirement for the IRS to maintain separate records of these situations.

During the period July 22, 1998, to January 31, 1999, there were approximately 680,000 taxpayers being audited by the IRS and 486,000 taxpayers in collection status. We do not know how many of these taxpayers requested to consult with a representative before or during an interview with the IRS. We also do not know how many of these taxpayers who obtained representation were later contacted directly by the IRS.

Without a process or management information system that identifies and tracks these requests and bypass instances, IRS management cannot determine the number of taxpayers' requests received or identify cases to review to ensure employees:

- Stopped the interview.
- Followed proper procedures for bypassing representatives, when warranted.

Therefore, we cannot determine if employees complied with procedures and protected taxpayers' rights.

Taxpayers can file a civil suit against the IRS under 26 U.S.C. § 7433 (1986) if employees intentionally deny a taxpayer the right to consult with a representative or bypass a representative without proper approval.

One way to identify possible violations of these rights is to determine if taxpayers have complained. The complaint process does not specifically categorize complaints related to either issue. To try to determine if complaints were received, we asked the National Taxpayer Advocate and 63 IRS managers in 8 of 33 field offices whether they had received any complaints since July 22, 1998. These managers indicated that there were no taxpayer complaints related to interviews not being stopped and taxpayers not being allowed to consult with representatives. Only one field office informed us that they had received a taxpayer complaint alleging that a representative had been bypassed. IRS

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management referred the complaint to TIGTA's Office of Investigations for further review.

Representatives from several practitioner organizations and the IRS Director of Practice indicated that there were general concerns about the issue of representation, but there were no specific complaints related directly to taxpayer consultation or bypass issues. Their expressed concerns related to the Power of Attorney and Declaration of Representative (Form 2848) not being properly or timely entered into IRS information systems. Form 2848 is used to authorize an individual to represent a taxpayer before the IRS and receive tax information. Practitioners also indicated that the IRS occasionally mailed correspondence to their clients when there was an established power of attorney on file.

The lack of complaints does not, itself, provide evidence that the IRS is properly stopping the interview to allow taxpayers the opportunity to consult with a representative or following proper bypass procedures. It could indicate, however, that this is not a significant concern of taxpayers. It could also indicate that taxpayers are not clearly aware of these rights and simply do not complain.

*The IRS has documents available that explain the taxpayer's right to representation.*

We performed some limited testing to determine how taxpayers were informed of their right to stop the interview to consult with a representative. Our tests included interviewing 28 managers and employees and reviewing the following documents that are issued to taxpayers prior to an interview:

- Appointment letters from tax examiners, revenue agents, and revenue officers.
- Your Rights as a Taxpayer (Publication 1) (Revisions dated May 1996 and December 1998).
- Appeal Rights and Preparation of Protests for Unagreed Cases (Publication 5).
- Understanding the Collection Process (Publication 594).



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We also reviewed the following documents that taxpayers can request from the IRS:

- Collection Appeal Rights (Publication 1660).
- Examination of Returns, Appeal Rights and Claims for Refund (Publication 556).

All of the above documents generally explained the taxpayer's right to obtain representation. However, none of the documents, with the exception of Publication 556, specifically mentioned the right to have an interview stopped so that the taxpayer may consult with a representative. Publication 556 is provided to taxpayers only upon request.

The IRS uses Publication 1 as the main document to inform taxpayers of their most important rights and explain the examination, collection, appeals, and refund processes. Examination and Collection Division managers and employees informed us that all taxpayers being audited by the IRS or in collection status are automatically provided a copy of Publication 1 prior to the interview. However, prior to December 1998, the right to stop the interview was not specifically mentioned in Publication 1. As a result of RRA 98, the IRS revised this publication in December 1998 to address this right. These changes should further educate taxpayers on their rights regarding representation during IRS interviews.

### **Recommendation**

We recommend that IRS Operations management:

2. Develop a process to determine whether employees are complying with the law when a taxpayer requests to consult with a representative or the employee bypasses a representative. In developing this process, the IRS should consider whether it would be feasible to use current IRS systems.

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Management's Response: The IRS does not plan to develop a new system, however; IRS management has begun to explore other alternatives, including:

- Revising the Examination and Collection Operations Customer Satisfaction Surveys to obtain feedback on this issue.
- Providing instructions to field managers and Quality Review staffs to specifically consider this issue.

### Conclusion

*Although there are procedures for employees to follow, we could not determine the IRS' compliance with the provisions of 26 U.S.C. § 7521(b)(2) and (c) (1986) and whether taxpayers' rights were protected.*

At this time, we cannot determine the IRS' compliance with 26 U.S.C. § 7521(b)(2) and (c) (1986) provisions requiring employees to stop an interview if a taxpayer requests to consult with a representative or to bypass a representative in certain situations. The IRS has written procedures for employees to follow, and we found only one taxpayer complaint in the offices visited. However, neither we nor the IRS can readily identify cases for review to determine whether employees effectively complied with these procedures and protected taxpayers' rights. Currently, there is no process or management information system that identifies cases where taxpayers have requested to consult with a representative or the IRS has bypassed a representative.

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**Appendix I**

**Detailed Objective, Scope, and Methodology**

The overall objective of this review was to evaluate the Internal Revenue Service's (IRS) compliance with the 26 U.S.C. § 7521(b)(2) and (c) (1986) requirements to:

- Stop an interview with a taxpayer, if that taxpayer requests to consult with a representative.
- Obtain supervisory approval to contact a taxpayer directly whenever the taxpayer's representative is unreasonably delaying a tax audit or collection action.

We conducted this audit from January 1999 to April 1999 in the IRS' National Office and eight field offices around the country. We obtained information by interviewing a limited number of IRS employees and professional organization representatives and reviewing hardcopy records and guidelines. We used judgmental sampling techniques to select the offices to visit and the IRS employees to interview.

All audit tests and interviews were not performed in all districts. Therefore, the number of employees and managers interviewed for the different audit tests shown below varied.

- I. Identified the IRS' procedures to comply with the requirements of 26 U.S.C. § 7521(b)(2) and (c) (1986).
  - A. Reviewed the Taxpayer Bill of Rights, as part of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. No. 100-647, 102 Stat. 3731 (1988) renumbered Pub. L. No. 101-239, 103 Stat. 2423 (1989); 26 U.S.C. § 7521(b)(2) and (c) (1986); Restructuring and Reform Act, Pub. L. No. 105-206, 112 Stat. 685 (1998); Internal Revenue Manual; and other IRS directives related to taxpayer interview rights and bypassing representatives.
  - B. Interviewed the IRS' executive management in the Collection and Examination Divisions to determine if:
    1. Taxpayers are made aware of their right to consult a representative during IRS interviews. Obtained and reviewed IRS publications issued to taxpayers to determine if this right is explained.
    2. Policies or procedures have been implemented to track or monitor taxpayers' requests and bypassed representatives.

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3. Instructions and training have been provided to employees in the field.
  4. Any complaints have been received from taxpayers since July 22, 1998, regarding employees denying them the right to consult a representative or bypassing their representative. Identified how management controlled and tracked the complaints.
  5. There is a national system or report that tracks taxpayers' requests and complaints in I.B.2. and I.B.4.
- II. Determined whether IRS employees followed established procedures for observing taxpayers' rights to representation during the interview process.
- A. Interviewed 7 District Directors and 51 Collection and Examination Division managers in IRS field offices to determine if:
1. There is a management information system to identify and track cases where taxpayers requested to consult with a representative.
  2. There are local procedures used to monitor employee actions to ensure they complied with taxpayers' requests for consultation.
  3. Any complaints had been received from taxpayers since July 22, 1998, regarding employees denying them the right to consult a representative or bypassing their representative. Identified how management controlled and tracked the complaints.
  4. Instructions and training have been provided to employees. Obtained and reviewed the training material to determine if appropriate employees received it.
- B. Interviewed 36 Collection and Examination Division employees in 6 IRS field offices to determine if:
1. They were aware of the established procedures to follow when a taxpayer requests to consult with a representative during an interview and when taxpayer representatives require bypassing.
  2. Taxpayer consultation rights were explained to taxpayers. Obtained and reviewed appointment letters sent to taxpayers to determine if an explanation is included.
  3. They had worked any cases since July 22, 1998, where taxpayers requested to consult with a representative during an interview.

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4. They had worked any cases since July 22, 1998, where taxpayer representatives were bypassed and the taxpayer directly contacted.
5. Training was provided regarding taxpayer consultation rights.

Auditor's Note: While we were conducting audit tests for Objective II.A and II.B, 28 employees and managers informed us about how taxpayers were informed of their rights. While this was not part of the original objective or our interview questions, we used this information in the report.

- III. Determined if there were violations of taxpayer consultation rights and procedures for bypassing representatives.
  - A. Contacted professional organizations (e.g., American Institute of Certified Public Accountants, American Bar Association) through the IRS' Public Liaison and Small Business Affairs office to inquire if they had received complaints from their clients.
  - B. Contacted the IRS Director of Practice to determine if any complaints had been received from representatives.
  - C. Interviewed the National and five field office IRS Taxpayer Advocates to determine if they had received any taxpayer complaints through the IRS' Problem Resolution Program or Customer Complaint Process since July 22, 1998. (This test, combined with test II.A.3, brought the total field office managers interviewed about taxpayer complaints regarding this subject area to 63, in addition to the National Taxpayer Advocate.)

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**Appendix II**

**Major Contributors to This Report**

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**Appendix III**

**Report Distribution List**

Deputy Commissioner Operations C:DO  
Chief Operations Officer OP  
Chief Management and Finance M  
Assistant Commissioner (Collection) OP:CO  
Assistant Commissioner (Examination) OP:EX  
Assistant Commissioner (Program Evaluation and Risk Analysis) M:OP  
National Director for Legislative Affairs CL:LA  
Office of Management Controls M:CFO:A:M  
Director, Houston District  
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Director, Los Angeles District  
Director, Midwest District  
Director, North Florida District  
Director, Ohio District  
Director, Pacific Northwest District  
Director, Upstate New York District  
Audit Liaison:  
    Senior Advisor, Office of Chief Operations Officer OP

**The Internal Revenue Service Needs to Enhance Guidance on  
and Monitoring of Compliance with Procedures for  
Directly Contacting Taxpayers and Their Representatives**

**Appendix IV**

**Management's Response to the Draft Report**

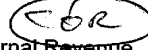


COMMISSIONER

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224  
OFFICE OF TREASURY  
INSPECTOR GENERAL  
RECEIVED

September 22, 1999 1999 SEP 23 A 7 22  
FOR TAX ADMINISTRATION

**MEMORANDUM FOR TREASURY INSPECTOR GENERAL FOR  
TAX ADMINISTRATION**

**FROM:** Charles O. Rossotti   
Commissioner of Internal Revenue

**SUBJECT:** Draft Audit Report - The Internal Revenue Service's  
Compliance With Procedures for Directly Contacting Taxpayers  
and Their Representatives

Thank you for the opportunity to review and comment on your recent draft report entitled "The Internal Revenue Service's Compliance with Procedures for Directly Contacting Taxpayers and Their Representatives." The report, in accordance with the Restructuring and Reform Act (RRA), is a review of the procedures and practices for IRS employees to follow when taxpayers ask to consult with a representative during an IRS interview or when representatives are unreasonably delaying an IRS tax audit or collections action. You have provided us with an insightful and thoughtful report, including a recommendation that will enhance our efforts to continuously improve our procedures.

We were pleased to note that your report found that our procedures should enable IRS employees to protect taxpayer rights and comply with the law in this area. We concur with your recommendation to provide further clarifying guidance. Regarding your second recommendation, we want to thank you for noting the limitations of our existing systems to capture and maintain data in a manner that would allow case-by-case review of these procedures. As you noted in your report, to accomplish this with our existing systems would require a labor-intensive, manual process. We are committed to implementing new technology based on revamped business practices to properly support the IRS modernization concept and fully comply with each of the mandates of RRA. This strategy includes near-term, mid-term, and long-term improvements as well as the immediate need to make all IRS systems Y2K compliant. Given the stringent processes we have implemented for prioritization of technology and service improvement, we do not foresee developing a new system to capture the data discussed in your report. However, in response to your recommendation we have begun to explore other alternatives. For example, we have taken action to directly solicit taxpayer feedback on this issue. Our Collection and Examination Operations Customer Satisfaction Surveys are currently being revised to include feedback on this question.



## **The Internal Revenue Service Needs to Enhance Guidance on and Monitoring of Compliance with Procedures for Directly Contacting Taxpayers and Their Representatives**

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We would like to take this opportunity to share with you some of the steps we have taken to communicate and reinforce the requirements for directly contacting taxpayers and their representatives with our employees. These include:

- Since the enactment of the Taxpayer Bill of Rights (part of the Technical and Miscellaneous Act of 1988) training on this area has been provided to Examination and Collection employees on several occasions. It was included in the initial training for the implementation of the Taxpayer Bill of Rights and has been reinforced in Continuing Professional Education (CPE) sessions held in the years since enactment. In addition, this topic was again emphasized as part of the training provided for the IRS Restructuring and Reform Act of 1998.
- Internal Revenue Manual (IRM) 4.2, Examination of Returns Handbook, has been recently revised (May 1999) by Examination to include more detailed instructions that cover establishing a minimum time frame for taxpayers to secure representation and procedures for handling situations where an examination is expanded to include years not covered by the original power-of-attorney. In addition, a separate memorandum was issued to the field offices, reiterating the procedures provided in the manual.
- Relevant sections of the Collection IRM are being revised to more specifically address taxpayer rights during interviews and how to proceed when all open periods are not included in the original power-of-attorney. Letter 725, Meeting Scheduled with Taxpayer, is being revised to advise taxpayers of their right to representation and their right to have an interview suspended to allow time to consult with a representative. In addition, a memo will be issued to answer the specific questions raised by Collection employees when interviewed by the Treasury Inspector General for Tax Administration.

The following responses are provided to the recommendations contained in the draft report:

### **IDENTITY OF RECOMMENDATION/FINDING #1**

Internal Revenue Service (IRS) Examination and Collection Division management should complete efforts to clarify national guidance for IRS employees to ensure that taxpayers' requests to consult with their representatives are treated consistently.

### **ASSESSMENT OF CAUSE(S)**

Although manual guidance does exist covering procedures for employees to follow when taxpayers request to consult with a representative during an IRS interview or when representatives are unreasonably delaying the IRS examination or collection action, we concur that additional guidance would help to ensure consistent treatment in all circumstances.

## **The Internal Revenue Service Needs to Enhance Guidance on and Monitoring of Compliance with Procedures for Directly Contacting Taxpayers and Their Representatives**

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The level of detail this additional guidance will provide was not previously provided in IRM's for all operational areas.

### **CORRECTIVE ACTIONS**

The Assistant Commissioners (Examination) and (Collection) will ensure that clarifying guidance is provided in the IRM for the following two circumstances:

- Determining who should be contacted if the representative is authorized to represent the taxpayer on only 1 tax year, but the interview covers more than 1 year.
- Determining whether enforcement actions (such as seizure of property) should be considered an interview with the taxpayer for the purpose of 26 U.S.C., Section 7521(b)(2) and (c) (1986).

### **IMPLEMENTATION DATE:**

January 1, 2000

### **RESPONSIBLE OFFICIAL(S)**

Assistant Commissioner (Examination)

Assistant Commissioner (Collection)

### **CORRECTIVE ACTION(S) MONITORING PLAN**

As part of the ongoing revision process for the IRM, field employees will be periodically surveyed/interviewed to ensure that the IRM guidance remains complete and clear.

### **IDENTITY OF RECOMMENDATION/FINDING #2**

Operations management should develop a process to determine whether employees are complying with the law when a taxpayer requests to consult with a representative or the employee bypassed a representative. In developing this process, the IRS should consider whether it would be feasible to use current IRS systems.

### **ASSESSMENT OF CAUSE(S)**

The current management information and operational systems in Examination and Collection do not capture all actions taken on cases since varying levels of automation are in place for case work and the data captured that could be used for later analysis is limited by the capacity and design of the systems. At this time, data is not being collected in the systems used by Examination (Audit Information Management System - AIMS) or Collection (Integrated Collection System - ICS) that would allow for the identification of cases meeting the specific conditions contained in this recommendation.

**The Internal Revenue Service Needs to Enhance Guidance on  
and Monitoring of Compliance with Procedures for  
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**CORRECTIVE ACTIONS**

Thank you for noting the limitations of our existing systems to capture and maintain data in a manner that would allow case-by-case review of these procedures. As you noted, to accomplish this with our existing systems would require a labor-intensive, manual process. We are committed to implementing new technology based on revamped business practices to properly support the IRS modernization concept and fully comply with each of the mandates of RRA. This strategy includes near-term, mid-term, and long-term improvements as well as the immediate need to make all IRS systems Y2K compliant. Given the stringent processes we have implemented for prioritization of technology and service improvements, we do not foresee developing a new system to capture the data discussed in your report. However, in response to your recommendation we have begun to explore other alternatives. For example, we have taken action to directly solicit taxpayer feedback on this issue. Our Collection and Examination Operations Customer Satisfaction Surveys are currently being revised to include feedback on this question. The implementation date reflected below is for completion of revised surveys.

Additionally, our field group managers are responsible for conducting periodic reviews of taxpayer case files to determine that proper procedures are being followed. Cases are also subject to another review based on the applicable quality standards by our Quality Review sites. We will issue additional instructions to field managers and our Quality Review staffs to specifically consider this issue.

**IMPLEMENTATION DATE:**

- October 1, 2000, for revision of Customer Satisfaction Surveys
- December 1, 1999, for issuance of additional instructions to Collection and Examination field managers and Quality Review staffs.

**RESPONSIBLE OFFICIAL(S)**

Assistant Commissioner (Examination)  
Assistant Commissioner (Collection)

**CORRECTIVE ACTION(S) MONITORING PLAN**

When the revised Customer Surveys are implemented, data from the new questions will be monitored and analyzed to ensure employee compliance with the required procedures and to initiate follow-up action as needed.

If you have any questions or need additional information, please call me, or a member of your staff may contact Gail Freeman at 202-343-0058.